

THE SALDARRIAGA LAW FIRM

Attorneys and Counselors at Law
275 Madison Avenue, Suite 2300
New York, New York 10016
(212) 682-4904

VICTOR H. SALDARRIAGA*
*Admitted in NY & NJ

Facsimile (212) 682-8978
E-Mail vhsllaw@aol.com

Counsel
JASMINE HAHN

BY ECF

June 6, 2022

Sanket J. Bulsara, U.S.M.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Gregory Barrantes. v. Beaver County Auto Rental, Inc., et al.*
Case No.: 22 CV 02930 (LDH)(SJB)

Dear Judge Bulsara:

Our firm represents the Plaintiff in this action. The purpose of this letter is to respond to Your Honor's Order to Show Cause filed on May 23, 2022, requiring Plaintiff to show cause by June 6, 2022, why this action should not be dismissed for lack of jurisdiction to the extent that since Plaintiff contends that there is diversity jurisdiction, then Plaintiff must allege the domicile of each of the members of the Defendant Latsko Automotive, LP.

According to the Pennsylvania State Police Crash Investigation Report, annexed hereto as Exhibit A, the vehicle owner of the motor vehicle involved in the subject motor vehicle accident with the Plaintiff's motor vehicle on May 18, 2020, is Defendant Beaver County Auto Rental, Inc. Unfortunately, due to a misinterpretation, Latsko Automotive LP was added as a defendant to this action.

As a result, Plaintiff hereby moves this Court for leave to file a First Amended Complaint, annexed hereto as Exhibit B, and dismiss his claim as against Defendant Latsko Automotive, LP, pursuant to Federal Rules of Civil Procedure 15 and 21. For the reasons set forth below, Plaintiff respectfully requests that this Court grant him leave to file a First Amended Complaint because it will clarify the dispute between the parties and will not cause any prejudice.

Federal Rule of Civil Procedure 15(a) provides that "leave to amend a complaint shall be freely given when justice so requires." *See Zahra v. Town of Southold*, 48 F.3d 674, 685 (2d Cir.1995); *Block v. First Blood Associates*, 988 F.2d 344, 350 (2d Cir.1993). Only "undue delay, bad faith, or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party ... [or] futility of the amendment" will serve to prevent an amendment prior to trial. *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962); *accord Zahra*, 48 F.3d at 685; *Block*, 988 F.2d at 350 ("The rule in this Circuit has been to allow a party to amend its pleadings in the absence of a

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showing by the nonmovant of prejudice or bad faith.”).

With respect to dismissal of a litigant, Federal Rule of Civil Procedure 21 provides that a party to an action may be “dropped or added” to a litigation upon “motion of any party ... at any stage of the action ... on such terms as are just.” Fed.R.Civ.P. 21.

Here, according to the records of the Department of State for the Commonwealth of Pennsylvania, annexed hereto as Exhibit C, Paul Latsko is the President of Beaver County Auto Rental, Inc. Moreover, upon information and belief, Latsko Automotive, LP may have provided, in part, additional insurance coverage for Plaintiff’s claim. However, without additional evidentiary and/or testimonial evidence, it was premature to include Latsko Automotive LP as a defendant in this case at this time. Nonetheless, assuming *arguendo*, Latsko Automotive LP can only be considered a joint tortfeasor in this case.

Fact that Defendants are merely joint tortfeasors, without more, will not constitute prejudice so as to deny Plaintiff leave to file an amended complaint discontinuing action as against Latsko Automotive LP since it is settled federal law that joint tortfeasors are not indispensable parties. *See Samaha v. Presbyterian Hosp.*, 757 F.2d 529, 531 (2d. Cir.1985).

Accordingly, the plaintiff’s motion for leave to file an amended complaint discontinuing the claim against Latsko Automotive LP should be granted.

Your Honor’s attention and understanding to this matter is greatly appreciated.

Respectfully Submitted,

/s/

Victor H. Saldarriaga (VS2191)

Enc.